

Introduced by Senator MorrowFebruary 22, 2002

An act to amend Section 13260 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 2058, as introduced, Morrow. Water quality: storm water permit fees: disposition.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of storm water by municipalities and industries in accordance with the federal national pollutant discharge elimination system (NPDES) permit program. Existing law requires each person for whom waste discharge requirements have been prescribed to submit an annual fee, for deposit in the Waste Discharge Permit Fund for expenditure by the State Water Resources Control Board, upon appropriation by the Legislature, for the purpose of carrying out the Porter-Cologne Water Quality Control Act. Existing law further requires that the fees collected from the storm water discharges that are subject to a general industrial or construction storm water permit under the NPDES to be accounted for separately in the fund and authorizes that not less than 50% of the money in the account be used, upon appropriation by the Legislature, by the California regional water quality control board with jurisdiction over the permitted industry or construction site that generated the fee, to carry out storm water programs in the region.

This bill would require that all fees collected for permits for the discharge of storm water by municipalities and industries be accounted for separately in the fund. The bill would also provide that not less than



50% of the money collected from general industrial or construction storm water permits, upon appropriation by the Legislature, would be used by the California regional water quality control board with jurisdiction over the permitted industry or construction site that generated the fee, to carry out storm water programs in the region. The bill would further provide that a portion of the money collected from the fees from all storm water discharge permits, upon appropriation by the Legislature, would be used by the city, county, or city and county, in which the fee was collected, solely to assist the local government to control pollutants or meet water quality standards.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13260 of the Water Code is amended to
2 read:

3 13260. (a) All of the following persons shall file with the
4 appropriate regional board a report of the discharge, containing the
5 information which may be required by the regional board:

6 (1) Any person discharging waste, or proposing to discharge
7 waste, within any region that could affect the quality of the waters
8 of the state, other than into a community sewer system.

9 (2) Any person who is a citizen, domiciliary, or political agency
10 or entity of this state discharging waste, or proposing to discharge
11 waste, outside the boundaries of the state in a manner that could
12 affect the quality of the waters of the state within any region.

13 (3) Any person operating, or proposing to construct, an
14 injection well.

15 (b) No report of waste discharge need be filed pursuant to
16 subdivision (a) if the requirement is waived pursuant to Section
17 13269.

18 (c) Every person subject to subdivision (a) shall file with the
19 appropriate regional board a report of waste discharge relative to
20 any material change or proposed change in the character, location,
21 or volume of the discharge.

22 (d) (1) Each person for whom waste discharge requirements
23 have been prescribed pursuant to Section 13263 shall submit an
24 annual fee not to exceed ten thousand dollars (\$10,000) according
25 to a reasonable fee schedule established by the state board. Fees



shall be calculated on the basis of total flow, volume, number of animals, or area involved.

(2) (A) Subject to subparagraph (B), any fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, for the purposes of carrying out this division.

(B) (i) Notwithstanding subparagraph (A), the fees collected pursuant to this section from storm water dischargers that are subject to a ~~general industrial or construction~~ storm water permit under the national pollutant discharge elimination system (NPDES) shall be separately accounted for in the Waste Discharge Permit Fund.

(ii) Not less than 50 percent of the money *collected as fees from general industrial or construction storm water discharges separately accounted for* in the Waste Discharge Permit Fund ~~that is separately accounted for pursuant to clause (i)~~ is available, upon appropriation by the Legislature, for expenditure by the regional board with jurisdiction over the permitted industry or construction site that generated the fee to carry out storm water programs in the region. *Upon appropriation of the Legislature, a portion of the money collected from fees from all municipal and industrial or construction storm water discharges that is separately accounted for in the Waste Discharge Permit Fund shall be used by the city, county, or city and county, in which the fee was collected, solely for purposes of assisting the local government to control pollutants or meet water quality standard.*

(iii) Each regional board that receives money pursuant to clause (ii) shall spend not less than 50 percent of that money solely on storm water inspection and regulatory compliance issues associated with industrial and construction storm water programs.

(3) Any person who would be required to pay the annual fee prescribed by paragraph (1) for waste discharge requirements applicable to discharges of solid waste, as defined in Section 40191 of the Public Resources Code, at a waste management unit that is also regulated under Division 30 (commencing with Section 40000) of the Public Resources Code, and who is or will be subject to the fee imposed pursuant to Section 46801 of the Public Resources Code in the same fiscal year, shall be entitled to a waiver of the annual fee for the discharge of solid waste at the waste

1 management unit imposed by paragraph (1) upon verification by
2 the state board of payment of the fee imposed by Section 48000 of
3 the Public Resources Code, and provided that the fee established
4 pursuant to Section 48000 of the Public Resources Code generates
5 revenues sufficient to fund the programs specified in Section
6 48004 of the Public Resources Code and the amount appropriated
7 by the Legislature for those purposes is not reduced.

8 (e) Each report of waste discharge for a new discharge
9 submitted under this section shall be accompanied by a fee equal
10 in amount to the annual fee for the discharge. If waste discharge
11 requirements are issued, the fee shall serve as the first annual fee.
12 If waste discharge requirements are waived pursuant to Section
13 13269, all or part of the fee shall be refunded.

14 (f) (1) On or before January 1, 1990, the state board shall
15 adopt, by emergency regulations, a schedule of fees authorized
16 under subdivisions (d) and (j). The total revenue collected each
17 year through annual and filing fees shall be set at an amount equal
18 to the revenue levels set forth in the Budget Act for this activity.
19 The state board shall automatically adjust the annual and filing
20 fees each fiscal year to conform with the revenue levels set forth
21 in the Budget Act for this activity. If the state board determines that
22 the revenue collected during the preceding year was greater than,
23 or less than, the revenue levels set forth in the Budget Act, the state
24 board may further adjust the annual filing fees to compensate for
25 the over and under collection of revenue.

26 (2) The emergency regulations adopted pursuant to this
27 subdivision, or subsequent adjustments to the annual fees, shall be
28 adopted by the state board in accordance with Chapter 3.5
29 (commencing with Section 11340) of Part 1 of Division 3 of Title
30 2 of the Government Code. The adoption of these regulations is an
31 emergency and shall be considered by the Office of Administrative
32 Law as necessary for the immediate preservation of the public
33 peace, health, safety, and general welfare. Notwithstanding
34 Chapter 3.5 (commencing with Section 11340) of Part 1 of
35 Division 3 of Title 2 of the Government Code, any emergency
36 regulations adopted by the state board, or adjustments to the annual
37 fees made by the state board pursuant to this section, shall not be
38 subject to review by the Office of Administrative Law and shall
39 remain in effect until revised by the state board.

1 (g) The state board shall adopt regulations setting forth
2 reasonable time limits within which the regional board shall
3 determine the adequacy of a report of waste discharge submitted
4 under this section.

5 (h) Each report submitted under this section shall be sworn to,
6 or submitted under penalty of perjury.

7 (i) The regulations adopted by the state board pursuant to
8 subdivision (f) shall include a provision that annual fees shall not
9 be imposed on those who pay fees under the National Pollutant
10 Discharge Elimination System until the time when those fees are
11 again due, at which time the fees shall become due on an annual
12 basis.

13 (j) Facilities for confined animal feeding or holding operations,
14 including dairy farms, which have been issued waste discharge
15 requirements or exempted from waste discharge requirements
16 prior to January 1, 1989, are exempt from subdivision (d). If the
17 facility is required to file a report under subdivision (c) after
18 January 1, 1989, the report shall be accompanied by a filing fee,
19 to be established by the state board in accordance with subdivision
20 (f), not to exceed two thousand dollars (\$2,000), and the facility
21 shall be exempt from any annual fee.

22 (k) Any person operating or proposing to construct an oil, gas,
23 or geothermal injection well subject to paragraph (3) of
24 subdivision (a), shall not be required to pay a fee pursuant to
25 subdivision (d), if the injection well is regulated by the Division
26 of Oil and Gas of the Department of Conservation, in lieu of the
27 appropriate California regional water quality control board,
28 pursuant to the memorandum of understanding, entered into
29 between the state board and the Department of Conservation on
30 May 19, 1988. This subdivision shall remain operative until the
31 memorandum of understanding is revoked by the state board or the
32 Department of Conservation.

33 (l) In addition to the report required by subdivision (a), before
34 any person discharges mining waste, the person shall first submit
35 the following to the regional board:

36 (1) A report on the physical and chemical characteristics of the
37 waste that could affect its potential to cause pollution or
38 contamination. The report shall include the results of all tests
39 required by regulations adopted by the board, any test adopted by
40 the Department of Toxic Substances Control pursuant to Section

1 25141 of the Health and Safety Code for extractable, persistent,
2 and bioaccumulative toxic substances in a waste or other material,
3 and any other tests that the state board or regional board may
4 require, including, but not limited to, tests needed to determine the
5 acid-generating potential of the mining waste or the extent to
6 which hazardous substances may persist in the waste after
7 disposal.

8 (2) A report that evaluates the potential of the discharge of the
9 mining waste to produce, over the long term, acid mine drainage,
10 the discharge or leaching of heavy metals, or the release of other
11 hazardous substances.

12 (m) Except upon the written request of the regional board, a
13 report of waste discharge need not be filed pursuant to subdivision
14 (a) or (c) by a user of recycled water that is being supplied by a
15 supplier or distributor of recycled water for whom a master
16 recycling permit has been issued pursuant to Section 13523.1.

